



TOPICS AFFECTING SMALL BUSINESS GOVERNMENT CONTRACTING

DoD Small Business Training Conference

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Page 1 of 4

May 25, 2012

SMALL BUSINESS ADMINISTRATION (SBA)

- **FINAL: Small Business Jobs Act: Implementation of Conforming & Technical Amendments (3245-AG15)** Requirement to publish a list & rationale for any bundled contracts on agency website within 30 days of data certification; published 10/13/2011 (76 FR 63542) effective 11/28/2011 unless significant adverse comments are received by 11/14/2011
- **FINAL: Small Business, Small Disadvantaged Business, HUBZone, & SD-VOSB Status Protest & Appeal Regulations (3245-AF65)** Increase formal size determination time from 10 business days to 15; require OHA to issue size appeal decision within 60 calendar days of close of record; allow SBA to appeal NAICS anytime before offers/bids are due; must stay the solicitation during NAICS appeal; correct FPDS-NG to reflect final size/eligibility decisions; changes to NAICS code appeal procedures & other size status protest appeal rules; published 2/2/2011 (76 FR 5680) effective 3/4/2011 (See open FAR Case 2012-014)
- **INTERIM FINAL: Women-Owned Small Business Federal Contract Program (3245-AG34)** Align inflation adjustments between SBA regs & FAR for WOSB program (e.g., \$6.5M manufacturing & \$4M all other); published & effective 1/12/2012 (77 FR 1857); comments due 2/13/2012; dates unavailable for final rule
- **INTERIM FINAL: Small Business HUBZone Program; Government Contracting Programs (3245-AG41)** Allows a declined/decertified HUBZone small business to reapply 90 calendar days after decline/decertification decision rather than wait 1 year to reapply if it meets eligibility requirements at time of application; published & effective 7/21/2011 (76 FR 43571) comments due 8/22/2011
- **PROPOSED: Small Business Jobs Act: Subcontract Integrity (3245-AG22)** Subcontracting compliance & interrelationship between contracting offices, small business offices & program offices relating to oversight & review activities; prime must: (1) make good faith effort to award subcontracts to small businesses at same % proposed in subcontracting plan, (2) submit written justification if % isn't met, (3) notify Contracting Officer in writing if reduced price is paid to a subcontractor or if payment to subcontractor is > 90 days past due; published 10/5/2011 (76 FR 61626); amended 12/1/2011 (76 FR 74749); comments due 1/6/2012; final rule anticipated 6/2012
- **PROPOSED: Small Business Jobs Act: Small Business Size and Status Integrity (3245-AG23)** Submission of offer on a FAR 19 solicitation = size/status certification by offeror = willful misrepresentation if not small/appropriate status; authorized official must sign on same page as size/status representation; annual size/status representation required in ORCA; published 10/7/2011 (76 FR 62313); comment period extended to 12/8/2011 (76 FR 69154); final rule anticipated 6/2012
- **PROPOSED: Task and Delivery Order Contracts, Bundling, Consolidation (3245-AG20)** Addresses task & delivery order set-asides under multiple-award contracts, multiple-award contract partial set-asides, & reserving ≥ multiple-award contracts when using full & open competition (See interim FAR rule 2011-024); must publish rationale for bundling on agency website; consolidated contract > \$2M requires Senior Procurement Executive / Chief Acquisition Officer ensure market research conducted & determine consolidation is necessary and justified; application of size standards; related definitions; published 5/16/2012 (77 FR 29130); comments due 7/16/2012
- **OPEN: Small Business Jobs Act: Small Business Mentor Protégé Programs (3245-AG24)** Establish SBA mentor protégé programs for SD-VOSB, HUBZone & WOSB (eligible for federal contracts) mentor protégé programs similar to the SBA 8(a) Mentor Protégé Program; dates unavailable for proposed rule
- **OPEN: Small Business HUBZone Program (3245-AG38)** Comprehensive revision of 13 CFR 126; clarify current HUBZone regs; implement various new procedures; ease program eligibility requirements; dates unavailable for proposed rule
- **OPEN: STTR Policy Directive (3245-AF45)** General changes for currency, add clarity for STTR data rights; OIRA received 5/4/2012; dates unavailable for proposed rule
- **OPEN: SBIR Program Policy Directive (3245-AF84)** Various definitions; add clarity for SBIR data rights; OIRA received 4/18/2012; dates unavailable for proposed rule



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Page 2 of 4

May 25, 2012

REGULATORY CHANGES: FAR

- **FINAL: Woman-Owned Small Business Program (2010-015)** Establishes WOSB/EDWOSB definitions & set-aside procedures limited by dollar value & NAICS; published 3/2/2012 (77 FR 12913) effective 4/2/2012; may self-represent or use one of four SBA approved 3rd Party Certifiers <http://www.sba.gov/wosb>
- **FINAL: Repeal of the Small Business Competitiveness Demonstration Program (2011-005)** Eliminates authority for emerging small business set-asides; published 12/30/2010 (75 FR 82567) effective 1/31/2011 (The "emerging small business" category still shown in CCR Profiles.)
- **FINAL: Socioeconomic Program Parity (2011-004)** No order of precedence among 8(a), HUBZone, SD-VOSB, EDWOSB, or WOSB Programs; consider each of these prior to SB set-aside; consider market research & agency goal achievements; ≤ SAT reserve exclusively for SB – may consider other SB categories; published 3/2/2012 (77 FR 12930) effective 4/2/2012
- **FINAL: Justification & Approval of Sole Source 8(a) Contracts (2009-038)** J&A required prior to any 8(a) award on > \$20M, approval level see 6.304, post within 14 days of award on FedBizOpps & agency website for minimum of 30 days; published & effective 4/18/2012 (77 FR 23369)
- **FINAL: Additional Requirements for Market Research (2008-007)** Requirement to perform market research before awarding an ID/IQ task or delivery order for noncommercial items > simplified acquisition threshold; may use market research performed within 18 months if information is still current, accurate, & relevant; published 3/16/2011 (76 FR 14562) effective 4/15/2011
- **FINAL: Small Disadvantaged Business Program Self-Certification of Subcontractors (2009-19)** SDB subcontractors may self-represent status to prime contractors in good faith; published & effective 11/2/2011 (76 FR 68026)
- **FINAL: Transition to System for Award Management (SAM) (2011-021)** Transition from Integrated Acquisition Environment (IAE) to SAM; consolidation of 8 electronic systems; Phase 1 – CCR, ORCA, ePLS; published 1/3/2012 (77 FR 187) effective 2/2/2012; <https://www.acquisition.gov/> (See final DFARS Case 2011-D-053)
- **INTERIM: Set-Asides for Small Business (2011-024)** Addresses task & delivery order set-asides under multiple-award contracts, multiple-award contract partial set-asides, & reserving ≥ multiple-award contracts when using full & open competition; published 11/2/2011 (76 FR 68032) effective 11/2/2011; comments extended to 2/13/2012; case on hold at direction of Director DARC pending finalization of SBA regulations (See open SBA RIN 3245-AG20)
- **PROPOSED: Constitutionality of Federal Contracting Programs for Minority-Owned and other Small Businesses (2009-016)** Implements Rothe Development Corporation v. DoD 606 F. Supp. 2d 648 (W.D. Tex. 2009) decision; proposes elimination of (1) FAR 19.11, price evaluation adjustments for SDBs & (2) FAR 19.12, evaluation factor/subfactors for SDB participation; authority for monetary incentives for SDB subcontracting remains but moved to FAR 19.7; published 9/9/2011 (76 FR 55849) with comments due 11/8/2011; draft final FAR rule to CAAC Legal for review 5/3/2012 (See open DFARS Case 2011-D038, Deletion of Text Implementing 10 USC 2323)
- **OPEN: Contracts under the SBA 8(a) Program (2012-022)** Revise & clarify FAR 19.8; opened 4/25/2012; anticipate draft proposed rule 6/6/2012
- **OPEN: Small Business Set-Asides under R&D Solicitations (2012-015)** Remove restrictions for use of SBSA for R&D; draft proposed rule for DARC discussion 5/9/2012
- **OPEN: Small Business Status Protests & Appeals (2012-014)** Clarify protests & appeal procedures for all small business programs; anticipate draft proposed rule 5/16/2012



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Page 3 of 4

May 25, 2012

REGULATORY CHANGES: *DFARS/PGI/DoD Deviations*

- **FINAL: Accelerate Small Business Payments (2011-D008)** Pay small businesses as quickly as possible after acceptance, invoice, documentation (232.903), DoD will phase-in implementation as payment systems are modified to accommodate accelerated payments to small businesses; published & effective 11/18/2011 (76 FR 71468); Phase-in: Class Deviation 2011-O00013 effective 6/28/2011 for payments processed through MOCAS; Class Deviation 2012-O0002 effective 1/24/2012 for payments processed through AVEDS/FAS/SAVES/MOCAS
- **FINAL: Extension of DoD Mentor Protégé Program (2012-D0024)** Program extended from 12/31/2011 – 12/31/2014 published 2/24/2012 (77 FR 11367)
- **FINAL: Extension of Comprehensive Small Business Subcontracting Plans (2012-D0026)** Program extended from 12/31/2011 – 12/31/2014 published 2/24/2012 (77 FR 11367)
- **FINAL: Transition to System for Award Management (SAM) (2011-D053)** Transition from Integrated Acquisition Environment (IAE) to SAM; consolidation of 8 electronic systems with phased implementation; published & effective 11/18/2011 (76 FR 71464) Phase 1 – CCR, FedReg, ORCA, ePLS roll out 5/29/2012 <https://www.acquisition.gov/SAM/SAM.html> (See final FAR Case 2011-021)
- **OPEN: Electronic Subcontracting Reporting System (2009-D002)** Conforms DFARS to the FAR regarding use of eSRS; 2/4/2011 case on hold while resolving issues
- **OPEN: Deletion of Text Implementing 10 USC 2323 (2011-D038)** Deletes text declared unconstitutional by Rothe decision; 4/26/2012 draft interim rule in review by DAR editor; Class Deviation 2011-O0003 dated 11/8/2010 remains in effect until interim DFARS case – shall not apply SDB evaluation factor & subfactor in FAR 19.12/DFARS 219.12 (See proposed FAR Case 2009-016)

ITEMS OF INTEREST

- **DD 2579** – OSBP coordinating changes with other offices to issue a revised DD 2579
- **FPDS-NG Report** – New "Small Top 100 Federal Contractors Report" 12/15/2011
- **FPDS-NG Validation** – Must select SD-VOSB as business type on SD-VOSB set-aside/sole source
- **NAICS 2012** – Published 8/17/2010 (76 FR 51240) & are posted on <http://www.census.gov/eos/www/naics>. OFPP issued direction 1/11/2012 to rollback to 2007 NAICS to allow SBA time to establish affected size standards. FPDS-NG will not accept 2012 NAICS until implemented. Projected implementation date approximately 10/2012.
- **OMB Correspondence** – "Myth-Busting" 5/7/2011 & 2/2/2011; Increasing Opportunities for Small Businesses in Purchase Card Micro-Purchases, 12/19/2011; Improving Small Business Procurement Data – Quality & Process, 11/14/2011; Increasing Small Business Participation in Federal Contracting, 2/11/2011 http://www.whitehouse.gov/omb/procurement_index_memo/
- **Product & Service Codes Manual** – Revised 8/2011 effective 10/1/2011. FPDS-NG updated 10/7/2011. Manual & crosswalk for revised codes available at: <https://www.acquisition.gov>
- **SBIR/STTR** – Reauthorized through 9/30/2017 & SBA letter dated 1/20/2012
- **Small Business Dashboard** – Displays small business goal achievements by agency <http://smallbusiness.data.gov> It is a subset of <http://www.usaspending.gov>.
- **Training: DAU Small Business Program for Contracting Officers (CLC 025)** – Distance learning module explaining the role of the Contracting Officer working with small businesses in the DoD Acquisition Program. Available 1/20/2012; 2 continuous learning points. <http://icatalog.dau.mil/>
- **Training: DAU Small Business Program for Program Managers (CLM 059)** – Distance learning module to provide Program Managers with the tools & understanding of how to best utilize small businesses. Available 5/2/2012; 4 continuous learning points. <http://icatalog.dau.mil/>
- **Training: FAI Certificate of Competency Program (FAC 007)** – Small business nonresponsibility determinations & Certificate of Competency. Modified 7/7/2011; 1 continuous learning point. <http://icatalog.dau.mil/>
- **Training: FAI Small Business Programs (FAC 031)** – Overview of small business types, programs, & related acquisition requirements. Modified 12/13/2011; 2 continuous learning points. <http://icatalog.dau.mil/>



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Page 4 of 4

May 25, 2012

SMALL BUSINESS ADMINISTRATION (SBA)

SBA must review one third of its size standards every 18 months and must conduct a complete size standards review every five years.

SBA Table of Size Standards revised 3/26/2012

STATUS	SECTOR	DESCRIPTION	RIN	PUBLISHED
FINAL	48-49	Transportation & Warehousing	3245-AG08	2/24/2012 (77 FR 10943); effective 3/26/2012
FINAL	54	Professional, Scientific, & Technical Services	3245-AG07	2/10/2012 (77 FR 7490); effective 3/12/2012
PROPOSED	51	Information	3245-AG26	10/12/2011 (76 FR 63216); comments due 12/12/2011; OIRA 4/28/2012; project final 6/2012
PROPOSED	53	Real Estate, Rental & Leasing	3245-AG28	11/15/2011 (76 FR 70680); comments due 1/17/2012; project final 6/2012
PROPOSED	56	Administrative & Support & Waste Management & Remediation Services	3245-AG27	10/12/2011 (76 FR 63510); comments due 12/12/2011; OIRA 4/28/2012; project final 6/2012
PROPOSED	61	Educational Services	3245-AG29	11/15/2011 (76 FR 70667); comments due 1/17/2012; project final 6/2012
PROPOSED	62	Health Care & Social Assistance Services	3245-AG30	2/24/2012 (77 FR 11001); comments due 4/24/2012; project final 5/2012
OPEN	22	Utilities	3245-AG25	OIRA 3/7/2012; Projected 5/2012
OPEN	23	Construction	3245-AG37	OIRA 3/7/2012; Projected 5/2012
OPEN	71	Arts, Entertainment, & Recreation	3245-AG36	OIRA 3/7/2012; Projected 5/2012

(OIRA = Office of Management & Budget, Office of Information and Regulatory Affairs)